

HOUSE BILL 465

By Fitzhugh

AN ACT to amend Tennessee Code Annotated, Section 5-1-310; Section 8-25-501(b); Section 8-25-303; Section 8-34-618; Section 8-36-112; Section 8-37-109(a); Section 8-37-220(b), 8-50-1203; and Title 8, Chapter 34, Part 3; Title 8, Chapter 35, Part 4; and Title 8, Chapter 36, Part 8 relative to pensions and compensation programs for public officers and employees.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 5-1-310, is amended by deleting subsections (b), (c), and (d) thereof and by substituting instead the following:

(b) By no later than August 31 of each year, the University of Tennessee institute for public service's center for government training shall provide the state treasurer with a list of all county officers described in subsection (a) above that have successfully completed all levels of the county officials certificate training program for that year. Said list shall include the respective address of each such county officer and such other information as the state treasurer may deem necessary.

(c) The incentive provided for in subsection (a) shall continue to be paid each year to any such county officer; provided, that the officer is included in the list submitted under subsection (b) as having successfully completed the continuing education requirements of the program and all other requirements necessary to maintain the officer's designation as a "certified public administrator."

(d) The incentive provided for by this section shall be paid by the state treasurer from funds appropriated for such purpose. The incentive shall be paid no later than October 31 of each year.

SECTION 2. Tennessee Code Annotated, Section 8-25-303(a), is amended by deleting from the second sentence thereof the figures “2005” and by substituting instead the figures “2006”.

SECTION 3. Tennessee Code Annotated, Section 8-25-303(a), is further amended by adding the following new language at the end thereof:

Subject to the approval of the department of finance and administration, state employees, other than employees of an institution of higher education, may elect on a form prescribed by the state treasurer to have the employer matching based on the amount contributed by the employee from the employee's longevity pay in lieu of the monthly matches as otherwise provided in this subsection (a). If the employee makes such an election, the employer match shall equal the amount contributed by such state employee from the employee's longevity pay, up to the maximum annualized employer match that could have been made had the match been made on a monthly basis.

Subject to the approval of a state supported institution of higher education, employees of that institution may elect in the manner and under the conditions provided in this subsection (a) above to have the employer matching based on the amount contributed by the employees from the employees' longevity pay in lieu of the monthly matches as otherwise provided in this subsection.

SECTION 4. Tennessee Code Annotated, Section 8-25-303(c), is amended by adding the following new language at the end thereof:

Notwithstanding this subsection (c), an institution of higher education may authorize the employees of that institution to elect to have the employer matching based on the amount contributed by the employees from the employees' longevity pay in accordance with subsection (a) regardless of whether such matching is authorized for employees who are paid on the centralized state payroll system.

SECTION 5. Tennessee Code Annotated, Title 8, Chapter 34, Part 3, is amended by adding the following as a new appropriately designated section:

8-34-3___. The retirement system is authorized to charge to and pay from the earnings of the funds of the retirement system the cost for implementing large scale business and technology improvements for the retirement system; provided, however, that no cost associated with the on-going maintenance of such improvements, or the state personnel necessary for implementing or maintaining such improvements shall be charged to or paid from such earnings. The provisions of this section shall cease to be effective on June 30, 2012.

SECTION 6. Tennessee Code Annotated, Section 8-34-618(b), is amended by deleting from subdivision (1) thereof the words “by the making of a lump sum payment”.

SECTION 7. Tennessee Code Annotated, Section 8-34-618, is amended by adding the following new subdivision at the end thereof:

(c) The retirement system shall not be liable for the payment of retirement allowances or other payments on account of this section for which reserves have not been previously created from funds contributed by the respective local government or the affected members. All costs associated with this section shall be the responsibility of the respective local government for which the public defender service was rendered. Should any required employer costs become delinquent, the commissioner of finance and administration, at the direction of the board of trustees of the retirement system, is authorized to withhold such amount or part of such amount from any state-shared taxes, which are otherwise apportioned to the local government.

SECTION 8. Tennessee Code Annotated, Section 8-35-403, is amended by deleting subsections (f) – (i) thereof and by substituting instead the following:

(f) Notwithstanding any provision of this part or any other law to the contrary, any employee who, on or after January 1, 2005, attains either five (5) or more but less than six (6) years of creditable service in the optional retirement program, or five (5) or more but less than six (6) years of creditable service in the Tennessee consolidated retirement system and the optional retirement program combined, shall have the option of transferring membership from the optional retirement program to the Tennessee consolidated retirement system under the following terms and conditions:

(1) The employee is employed in a position covered by the Tennessee consolidated retirement system and has not received from such employee's account or accounts in the optional retirement program a cash withdrawal or other distribution that resulted from service rendered to a Tennessee state-supported institution of higher education. This provision shall not be construed to apply to limited lump sum cash distributions made pursuant to § 8-35-404(d)(1);

(2) Such election must be made on election forms prescribed by the Tennessee consolidated retirement system and filed with it and with the institution where the employee is employed by no later than the end of the calendar year following the year the employee completes five (5) years of creditable service;

(3) Any such transfer shall include both past and prospective membership;

(4) The transfer shall be irrevocable;

(5) The employee must pay to the Tennessee consolidated retirement system the greater of:

(A) A sum equal to the employee's account balances in the optional retirement program that resulted from service rendered to a Tennessee state- supported institution of higher education; or

(B) A sum equal to twelve and sixty-five hundredths percent (12.65%) of the employee's earnable compensation during the period of such employee's membership in the optional retirement program, plus interest on such amount at the rate provided in § 8-37-214;

(6) Notwithstanding § 8-37-220, the payment required under this subsection (f) shall be made in a lump sum to the Tennessee consolidated retirement system by no later than the end of the calendar year following the year the employee completes five (5) years of creditable service, and may be funded in whole or in part from amounts transferred from the employee's accounts in the optional retirement program, from other eligible tax deferred retirement accounts or from other funds available to the employee. For the purposes of this subdivision (f)(6), amounts transferred from a tax deferred retirement account shall have the same meaning as that given in § 8-37-214(g)(1). Any difference between the payment required under this subsection (f) and the amount transferred from the optional retirement program or a tax deferred retirement account shall be paid to the Tennessee consolidated retirement system within sixty (60) days following the transfer, but in any event no later than the end of the calendar year following the year the employee completes five (5) years of creditable service. Notwithstanding § 8-35-111 or any other law to the contrary, if the payment is not funded in whole or in part from amounts transferred from the optional retirement program, the employee shall be permitted to retain ownership of such amounts without violating § 8-35-111;

(7) The employee shall have no rights, benefits or privileges in the Tennessee consolidated retirement system until the full amount of the payment required under this subsection (f) is received by the retirement system. In the event the employee fails to remit the full amount by the time specified in subsection (f)(6) of this section, the employee shall irrevocably lose such employee's right to transfer membership from the optional retirement program to the Tennessee consolidated retirement system under this chapter; and

(8) All payments made under this subsection (f) shall be credited to the state accumulation fund pursuant to § 8-37-301 and not to the individual accounts of members in the members' fund.

(g) Notwithstanding § 8-35-411 or any other law to the contrary, any employee who transfers membership from the optional retirement program to the Tennessee consolidated retirement system pursuant to this section may elect to receive a cash withdrawal of all or any portion of such employee's accumulated account or accounts if permitted by the relevant optional retirement company.

SECTION 9. Tennessee Code Annotated, Section 8-37-220(b), is amended by inserting the punctuation and figures “, 8-35-403(f)” immediately after the figures “8-35-317” in the first sentence thereof.

SECTION 10. Tennessee Code Annotated, Section 8-35-409, is amended by deleting from the first sentence thereof the words and figures “at least thirty (30) days prior to July 1 of any year”.

SECTION 11. Tennessee Code Annotated, Section 8-35-409, is further amended by deleting from the second sentence thereof the word and figure “July 1” and by substituting instead the words “the retirement system’s receipt of the request”.

SECTION 12. Tennessee Code Annotated, Title 8, Chapter 35, Part 4, is amended by adding the following as a new appropriately designated section:

8-35-4___. Any member of the Tennessee consolidated retirement system who participated in the optional retirement program and received a limited lump sum distribution of contributions pursuant to § 8-35-404(d)(1) shall be entitled to establish service and salary credit in the Tennessee consolidated retirement system for the period during which those contributions were made to the member's optional retirement account. To establish such service, the member must pay to the Tennessee consolidated retirement system a sum equal to twelve and sixty-five hundredths percent (12.65%) of the member's earnable compensation during the period those contributions were made to the member's optional retirement account, plus interest on such amount at the rate provided in § 8-37-214.

SECTION 13. Tennessee Code Annotated, Title 8, Chapter 35, Part 4, is further amended by adding the following as a new appropriately designated section:

8-35-4___. Any person receiving benefits from the optional retirement program established pursuant to this part who returns to service on other than a full-time basis in a position covered by the optional retirement program shall be subject to the applicable work and compensation limits set forth in subdivisions (1) and (2) of § 8-36-805. As a condition of such employment, the person shall not be eligible for additional contributions to such person's optional retirement account nor shall such person be eligible to accrue retirement credit in the Tennessee consolidated retirement system during that person's period of reemployment.

SECTION 14. Tennessee Code Annotated, Title 8, Chapter 36, Part 8, is amended by adding the following as a new appropriately designated section:

(a) Notwithstanding any provision of law to the contrary, any retired member of the Tennessee consolidated retirement system, or of any superseded system, or of any local retirement fund established pursuant to chapter 35, part 3 of this title may accept employment as a kindergarten through twelfth grade school bus driver without loss or suspension of retirement benefits; provided, that:

(1) Such retirement benefits are not based on any service and salary rendered as a kindergarten through twelfth grade school bus driver;

(2) During a twelve-month period, the retired member does not work more than nine hundred sixty (960) hours under this or any other section in this part combined; and

(3) The retired member shall not be eligible to accrue additional retirement benefits as a result of such employment.

(b) The provisions of this section shall not be construed to prohibit any retiree whose retirement benefits are based on service and salary rendered as a kindergarten through twelfth grade school bus driver from returning to service as a kindergarten through twelfth grade school bus driver provided the provisions of § 8-36-805 are met.

(c) The provisions of this section shall cease to be effective on June 30, 2012.

SECTION 15. Tennessee Code Annotated, Section 8-36-112, is amended by deleting the same in its entirety and by substituting instead the following:

Nothing in this part shall be construed to prohibit the withholding of insurance premiums for retirees under a plan approved by the state insurance committee, or for retired teachers or other retired local government employees for payment of insurance premiums under any Tennessee local government group insurance plan provided to such retirees. The director of the Tennessee consolidated retirement system may periodically establish a schedule of insurance premium support levels that local

education agencies may assign to such retired teachers. If a schedule is established, a local education agency must conform to the schedule in order for the retirement system to make or continue making premium payment deductions from the retirement benefits of that local education agency's retired teachers.

SECTION 16. Tennessee Code Annotated, Section 8-25-501(b), is amended by deleting the first sentence thereof in its entirety and by substituting instead the following:

Any employer who has implemented a cafeteria plan pursuant to this section shall arrange for its employees' health insurance premiums and dental insurance premiums to be automatically paid through the cafeteria plan beginning January 1, 2008.

SECTION 17. Tennessee Code Annotated, Section 8-37-109(a), is amended by deleting the word "council" and by substituting instead the words "investment advisory council".

SECTION 18. Tennessee Code Annotated, Section 8-50-1203, is amended by deleting subdivisions (2), (3), and (4) thereof and by substituting instead the following:

(2) The investment committee of the political subdivision must adopt, in writing, an investment policy authorizing how assets in the trust may be invested. Such policy shall not authorize assets in the trust to be invested in any instrument, obligation, security, or property that would not constitute a legal investment for assets of Tennessee domestic life insurance companies;

(3) The trust must conform to all applicable laws, rules and regulations of the Internal Revenue Service, if any. Notwithstanding any provision of subdivision (4) of this section to the contrary, it shall be the sole responsibility of the political subdivision to ensure that the trust conforms to any such laws, rules and regulations of the Internal Revenue Service; and

(4) The trust document must be submitted to the state funding board for approval.

SECTION 19. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 20. This act shall take effect upon becoming a law, the public welfare requiring it.